

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

ERIC E. HOUSTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Nos.: 3:99-CR-132
	)	3:13-CV-598
UNITED STATES OF AMERICA,	)	(VARLAN/GUYTON)
	)	
Respondent.	)	

**MEMORANDUM**

Petitioner has filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Petitioner was convicted of possession with intent to distribute cocaine base (crack). He previously filed a § 2255 motion attacking the same conviction. The previous motion was denied on the merits. *Eric Houston v. United States of America*, Civil Action No. 3:01-cv-519 (E.D. Tenn. January 3, 2006) (Judgment Order).

In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," the petitioner cannot file a second or successive § 2255 motion in the district court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the motion. This Court has not received an order from the Sixth Circuit authorizing the Court to consider the pending motion.

Under the circumstances, the motion to vacate, set aside or correct sentence will be **DENIED** as a second or successive petition and this action will be **DISMISSED WITH**

**PREJUDICE.** A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c).

In addition to the above, this Court has carefully reviewed this case pursuant to 28 U.S.C. § 1915(a) and will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court will **DENY** the petitioner leave to proceed *in forma pauperis* on appeal. *See* Rule 24 of the Federal Rules of Appellate Procedure.

**AN APPROPRIATE ORDER WILL ENTER.**

s/ Thomas A. Varlan

CHIEF UNITED STATES DISTRICT JUDGE